

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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SARAH PALIN,	:	No. 17 Civ. 4853
	:	
Plaintiff,	:	
	:	Hon. Jed S. Rakoff
	:	
-against-	:	
	:	ECF Case
	:	
THE NEW YORK TIMES COMPANY and JAMES	:	
BENNET,	:	
	:	
Defendants.	:	
	:	

DECLARATION OF THOMAS B. SULLIVAN

Thomas B. Sullivan, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am associated with the law firm of Ballard Spahr LLP, counsel for Defendants The New York Times Company (“The Times”) and James Bennet (together, “Defendants”) in the above-captioned action. I submit this declaration in support of Defendants’ Motion for Summary Judgment. I have personal knowledge of the facts herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from the transcript of the hearing held by this Court on August 16, 2017, related to The Times’s Motion to Dismiss Plaintiff’s Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from the transcript of the deposition of James Bennet, held on May 26 and 27, 2020.

4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from the transcript of the deposition of Elizabeth Williamson, held on May 19, 2020.

5. Attached hereto as **Exhibit 4** is a true and correct copy of excerpts from the transcript of the deposition of Linda Cohn, held on May 7, 2020.

6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from the transcript of the deposition of Timothy Crawford, held on May 12, 2020.

7. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from the transcript of the deposition of Sarah Palin, held on May 20 and 21, 2020.

8. Attached hereto as **Exhibit 7** is a DVD containing a true and correct copy of a CBS News clip from April 9, 2010 (available at <https://www.youtube.com/watch?v=1uzJCqQ5aZU>), introduced during depositions as Defendants' Exhibit 23.

9. Attached hereto as **Exhibit 8** is a true and correct copy of an email sent by Nicholas Fox at 12:08 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamps NYTIMES0001068-69 and introduced during depositions as Plaintiff's Exhibit 16.

10. Attached hereto as **Exhibit 9** is a true and correct copy of an email sent by Robert Semple at 12:58 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0001082 and introduced during depositions as Plaintiff's Exhibit 23.

11. Attached hereto as **Exhibit 10** is a true and correct copy of an email sent by Robert Semple at 12:08 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamps NYTIMES0001070-71 and introduced during depositions as Plaintiff's Exhibit 17.

12. Attached hereto as **Exhibit 11** is a true and correct copy of an email sent by James Bennet at 12:41 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0001078 and introduced during depositions as Plaintiff's Exhibit 20.

13. Attached hereto as **Exhibit 12** is a true and correct copy of an email sent by Elizabeth Williamson at 1:40 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0001083 and introduced during depositions as Plaintiff's Exhibit 24.

14. Attached hereto as **Exhibit 13** is a true and correct copy of an email sent by Jay Ward Brown at 9:35 AM on August 17, 2017, introduced during depositions as Plaintiff's Exhibit 30.

15. Attached hereto as **Exhibit 14** is a true and correct copy of an email sent by James Bennet at 2:52 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamps NYTIMES0001159-60 and introduced during depositions as Plaintiff's Exhibit 27.

16. Attached hereto as **Exhibit 15** is a true and correct copy of *No One Listened to Gabrielle Giffords*, a column authored by Frank Rich and published in *The New York Times* on January 15, 2011, produced in discovery by Plaintiff bearing Bates stamps PALIN003463-68.

17. Attached hereto as **Exhibit 16** is a true and correct copy of an email sent by Elizabeth Williamson at 4:45 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0001228 and introduced during depositions as Plaintiff's Exhibit 72.

18. Attached hereto as **Exhibit 17** is a true and correct copy of an email sent by James Bennet at 7:42 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0003239 and introduced during depositions as Plaintiff's Exhibit 172.

19. Attached hereto as **Exhibit 18** is a true and correct copy of certain drafts of the editorial at issue in this case dated June 14, 2017, introduced during depositions as Plaintiff's Exhibit 32E.

20. Attached hereto as **Exhibit 19** is a true and correct copy of the editorial at issue in this case as it appeared in the print edition of *The New York Times* on June 15, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0002912 and introduced during depositions as Defendants' Exhibit 2.

21. Attached hereto as **Exhibit 20** is a true and correct copy of an email sent by Phoebe Lett at 2:52 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0001161 and introduced during depositions as Plaintiff's Exhibit 28.

22. Attached hereto as **Exhibit 21** is a true and correct copy of an email sent by Ross Douthat at 7:44 AM on June 15, 2017, produced in discovery by Defendants bearing Bates stamps NYTIMES0001716-17 and introduced during depositions as Plaintiff's Exhibit 38.

23. Attached hereto as **Exhibit 22** is a true and correct copy of a text message exchange between James Bennet and Elizabeth Williamson on the evening of June 14 and morning of June 15, 2017, produced in discovery by Defendants bearing Bates stamps JBENNET0000038-39 and introduced during depositions as Plaintiff's Exhibits 291 and 292.

24. Attached hereto as **Exhibit 23** is a true and correct copy of an email sent by Eileen Lepping at 8:19 AM on June 15, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0001803 and introduced during depositions as Plaintiff's Exhibit 37.

25. Attached hereto as **Exhibit 24** is a true and correct copy of a draft of the Editorial, produced in discovery by Plaintiff bearing Bates stamps PALIN00234-35 and introduced during depositions as Plaintiff's Exhibit 33.

26. Attached hereto as **Exhibit 25** is a true and correct copy of a tweet by the NYT Opinion Twitter account (@nytopinion) on June 15, 2017, and the thread associated with that tweet, produced in discovery by Plaintiff bearing Bates stamps PALIN03829-33 and introduced during depositions as Plaintiff's Exhibit 53.

27. Attached hereto as **Exhibit 26** is a true and correct copy of a tweet by the NYT Opinion Twitter account (@nytopinion) on June 15, 2017, produced in discovery by Plaintiff bearing Bates stamps PALIN03827-28 and introduced during depositions as Plaintiff's Exhibit 52.

28. Attached hereto as **Exhibit 27** is a true and correct copy of the webpage of the Editorial (as captured on June 16, 2017), produced in discovery by Plaintiff bearing Bates stamps PALIN02733-37 and introduced during depositions as Plaintiff's Exhibit 51.

29. Attached hereto as **Exhibit 28** is a true and correct copy of *Blast at Israeli Home Kills 2; Talks Center on Prisoners*, an article authored by James Bennet and published in *The New York Times* on July 8, 2003, produced in discovery by Defendants bearing the Bates stamps NYTIMES0003278-81.

30. Attached hereto as **Exhibit 29** is a true and correct copy of an email sent by James Bennet at 2:34 PM on June 14, 2017, produced in discovery by Defendants bearing Bates stamps NYTIMES0001157-58 and introduced during depositions as Plaintiff's Exhibit 26.

31. Attached hereto as **Exhibit 30** is a true and correct copy of *Ten Days That Defined 2011*, an article authored by Richard Lawson and published in *The Atlantic Wire* on December 29, 2011, which was attached to the First Amended Complaint as Exhibit 14, produced in discovery by Plaintiff bearing Bates stamps PALIN04486-97, and introduced during depositions as Plaintiff's Exhibit 153.

32. Attached hereto as **Exhibit 31** is a true and correct copy of *Dupnik's Confession*, an article authored by Rich Lowry and published in the *National Review* on January 17, 2011, attached to the First Amended Complaint as Exhibit 11, and produced in discovery by Plaintiff bearing Bates stamps PALIN02592-94.

33. Attached hereto as **Exhibit 32** is a true and correct copy of non-party Michael Bennet's Responses and Objections to a Subpoena from Plaintiff, as provided to Defendants by Plaintiff's counsel.

34. Attached hereto as **Exhibit 33** is a true and correct copy of an excerpt from the treatise *Sack on Defamation: Libel, Slander, and Related Problems* (5th ed. 2017), authored by the Honorable Robert D. Sack.

35. Attached hereto as **Exhibit 34** is a true and correct copy of a map published by SarahPAC that features crosshairs positioned over congressional districts of twenty Democrats who supported the Affordable Care Act, along with a list of each Representative's name, introduced during depositions as Defendants' Exhibit 15.

36. Attached hereto as **Exhibit 35** is a true and correct copy of a tweet by Sarah Palin (@SarahPalinUSA) on Nov. 4, 2010, introduced during depositions as Defendants' Exhibit 24.

37. Attached hereto as **Exhibit 36** is a true and correct copy of *Cross hairs: Crossroads for Palin?*, an article authored by Dan Balz and published in *The Washington Post* on January 11, 2011.

38. Attached hereto as **Exhibit 37** is a true and correct copy of *A McKinley moment?*, an article authored by Dana Milbank and published in *The Washington Post* on January 11, 2011.

39. Attached hereto as **Exhibit 38** is a true and correct copy of *Sarah Palin's 'Crosshairs' Ad Dominates Gabrielle Giffords Debate*, an article authored by John Berman and published by *ABC News* on January 9, 2011, which was produced in discovery by Plaintiff bearing Bates stamps PALIN00001-03 and introduced during depositions as Plaintiff's Exhibit 34.

40. Attached hereto as **Exhibit 39** is a true and correct copy of an email sent Elizabeth Williamson at 9:25 AM on June 16, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0003261 and introduced during depositions as Plaintiff's Exhibit 180.

41. Attached hereto as **Exhibit 40** is a true and correct copy of *America's Lethal Politics*, an editorial published in *The New York Times* on June 14, 2017, produced in discovery by Plaintiff bearing Bates stamps PALIN02729-32, and introduced during depositions as Plaintiff's Exhibit 50.

42. Attached hereto as **Exhibit 41** is a true and correct copy of excerpts from the transcript of the deposition of Andrew Sullivan, held on May 11, 2020.

43. Attached hereto as **Exhibit 42** is a true and correct copy of *An Assassination?*, a post published by *The Daily Dish* on January 8, 2011, produced in discovery by Plaintiff bearing Bates stamps PALIN04351-58, and introduced during depositions as Plaintiff's Exhibit 146(A).

44. Attached hereto as **Exhibit 43** is a true and correct copy of *Caldwell's Unfairness*, a post published by *The Daily Dish* on January 15, 2011, produced in discovery by Plaintiff bearing Bates stamps PALIN04388-91, and introduced during depositions as Plaintiff's Exhibit 123.

45. Attached hereto as **Exhibit 44** is a true and correct copy of excerpts from the transcript of the deposition of Ross Douthat, held on May 8, 2020.

46. Attached hereto as **Exhibit 45** is a true and correct copy of *The Tucson Witch Hunt*, a column authored by Charles M. Blow and published in *The New York Times* on January 14, 2011, produced in discovery by Plaintiff bearing Bates stamps PALIN03655-58 and introduced during depositions as Plaintiff's Exhibit 60.

47. Attached hereto as **Exhibit 46** is a true and correct copy of *She Who Must Not Be Named*, a column authored by Charles M. Blow and published in *The New York Times* on December 3, 2010, produced in discovery by Plaintiff bearing Bates stamps PALIN03562-64 and introduced during depositions as Plaintiff's Exhibit 12.

48. Attached hereto as **Exhibit 47** is a true and correct copy of *Stumping for McCain, Sarah Palin dials back the gun rhetoric*, an article authored by Linda Feldmann and published in *The Christian Science Monitor* on March 26, 2010.

49. Attached hereto as **Exhibit 48** is a true and correct copy of a draft of the editorial at issue in this case dated June 14, 2017, produced in discovery by Defendants bearing Bates stamps NYTIMES0000250-253, and introduced during depositions as Plaintiff's Exhibit 32F.

50. Attached hereto as **Exhibit 49** is a true and correct copy of *America's Lethal Politics*, an editorial published in *The New York Times* on June 14, 2017, produced in discovery by Plaintiff bearing Bates stamps PALIN02738-42, and introduced during depositions as Plaintiff's Exhibit 35.

51. Attached hereto as **Exhibit 50** is a true and correct copy of *America's Lethal Politics*, an editorial published in *The New York Times* International Edition on June 16, 2017, produced in discovery by Defendants bearing Bates stamp NYTIMES0002914.

52. Attached hereto as **Exhibit 51** is a true and correct copy of page A26 of the June 16, 2017 edition of *The New York Times*' Opinion section, produced in discovery by Defendants bearing Bates stamp NYTIMES0002916.

53. Attached hereto as **Exhibit 52** is a true and correct copy of *Was Shooting of Rep. Gabrielle Giffords Political*, a post authored by Max Fisher and published by *The Atlantic Wire* on January 10, 2011, and produced in discovery by Plaintiff bearing Bates stamps PALIN04514-21.

54. Attached hereto as **Exhibit 53** is a true and correct copy of *Did Sarah Palin's Target Target Map Play Role in Giffords Shooting*, a post authored by Max Fisher and published by *The Atlantic Wire* on January 10, 2011, and produced in discovery by Plaintiff bearing Bates stamps PALIN04392-99.

55. Attached hereto as **Exhibit 54** is a true and correct copy of *What We Know About Jared Lee Loughner*, a post authored by John Hudson and published by *The Atlantic Wire* on January 8, 2011, and produced in discovery by Plaintiff bearing Bates stamps PALIN04530-38.

56. Attached hereto as **Exhibit 55** is a true and correct copy of *An Assassination Attempt in Arizona: Live-Blogging*, a post published by *The Daily Dish* on January 8, 2011, produced in discovery by Plaintiff bearing Bates stamps PALIN04359-72, and introduced during depositions as Plaintiff's Exhibit 146.

57. Attached hereto as **Exhibit 56** is a true and correct copy of *The More We Know*, a post published by *The Daily Dish* on January 17, 2011, produced in discovery by Plaintiff bearing Bates stamps PALIN04498-505, and introduced during depositions as Plaintiff's Exhibit 151.

58. Attached hereto as **Exhibit 57** is a true and correct copy of *Stop the Blame Game*, a post authored by Josh Kraushaar and published by *National Journal* on January 11, 2011, and produced in discovery by Plaintiff bearing Bates stamps PALIN04477-85.

59. Attached hereto as **Exhibit 58** is a true and correct copy of *Is there a right to 'reload'?*, a column authored by Eugene Robinson and published in the *Washington Post* on March 26, 2010.


60. Attached hereto as **Exhibit 59** is a true and correct copy of excerpts from the transcript of the deposition of Eileen Lepping, held on May 5, 2020.

61. Attached hereto as **Exhibit 60** is a true and correct copy of *Fiery rhetoric a close relative of violence*, a column authored by Petula Dvorak and published in the *Washington Post* on December 1, 2015.

62. Attached hereto as **Exhibit 61** is a true and correct copy of *At a D.C. pizzeria, the dangers of fake news just got all too real*, a column authored by Petula Dvorak and published in the *Washington Post* on December 5, 2016.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 19, 2020
Strathmere, New Jersey



Thomas B. Sullivan